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November 7, 2019

*Via email to shade.kevin@epa.gov and U.S. Mail*

Kevin Shade  
Grants Mining District Coordinator  
U.S. Environmental Protection Agency,  
Region 6 (SEDAE)  
1201 Elm Street, Suite 500  
Dallas, TX 75270

Re: 104(e) Information Request  
Johnny M Uranium Mine Site  
Cibola County, NM  
SSID A6AH

Dear Mr. Shade:

Enclosed is Fernandez Company, Ltd.'s initial response to EPA's September 30, 2019 104(e) Information Request which was received by Fernandez Company, Ltd. on October 8, 2019. If you need anything further, please contact the undersigned. Thank you for your consideration.

Sincerely,

CAVIN & INGRAM, P.A.

By:   
Stephen D. Ingram

SDI:tg  
Enclosures

cc: Pam Travis (travis.pamela@epa.gov)  
Ron Eddy (reddy@shermanhoward.com)

**FERNANDEZ COMPANY, LTD.'S RESPONSE TO EPA'S SEPTEMBER 30, 2019  
CERCLA SECTION 104(e) INFORMATION REQUEST REGARDING THE  
JOHNNY M MINE SITE, DATED  
NOVEMBER 7, 2019**

Fernandez Company, Ltd. ("Fernandez") hereby responds to EPA's Information Request – Johnny M Uranium Mine Site, Cibola County, New Mexico SSID A6AH, dated September 30, 2019 and received by Fernandez on October 8, 2019. The Information Request states that it was issued pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601, *et seq.* ("CERCLA").

In order to provide adequate time for Fernandez to search for, compile and review historical documents that may be responsive to EPA's Information Request, Fernandez requested additional time to respond. Pursuant to agreement between EPA and counsel for Fernandez, Fernandez is providing this initial response, and any additional response is due on or before December 9, 2019.

**GENERAL OBJECTIONS**

1. These general objections apply to all of EPA's requests, and are incorporated into every response of Fernandez thereto, where applicable. Omitting the repetition of any of these general objections within responses to specific requests below, is not intended as, and shall not result in, a waiver of the right to interpose such general objections.

2. Fernandez objects to EPA's requests to the extent that they seek information or documents protected by the work product doctrine, attorney-client privilege, self-evaluation privilege, or any other applicable privilege. This objection includes, without limitation, information or documents which relate to or concern mental impressions, communications,

conclusions, opinions, research, or legal theories of an attorney or representative of Fernandez concerning this matter.

3. Fernandez objects to EPA's requests to the extent that they seek information or documents that are neither relevant to this matter, nor are reasonably calculated to produce information covered by EPA's authority under CERCLA Section 104(e).

4. Fernandez objects to EPA's requests to the extent that they are overly broad, unduly burdensome, vague, or ambiguous.

5. Fernandez objects to EPA's requests to the extent that they purport to call for publicly available documents and/or information, documents and/or information equally available from another source, or documents and/or information in EPA's possession, custody, and/or control, on the grounds that such documents and/or information are equally available to EPA. Fernandez objects to EPA's requests to the extent they call for information or documents from persons and/or entities over which Fernandez has neither control nor duty to control.

6. Fernandez objects to EPA's requests to the extent that they seek trade secrets and/or sensitive personal, financial, proprietary, and confidential information.

7. Fernandez objects to EPA's use of "Lee Ranch" in its requests as such term is not defined as to exactly what lands or entity are intended by EPA to constitute "Lee Ranch." For purposes of this response, Fernandez has interpreted the term Lee Ranch to mean that portion of the property owned by Fernandez upon which the Johnny M Mine is located, generally speaking, certain property in Township 13 North, Range 8 West, Section 7: S/2, and Section 18: E/2, McKinley

County, New Mexico. For purposes of clarity, in its responses, Fernandez refers to that property as the "Lee Ranch/Johnny M."

8. Fernandez objects to EPA's definition of "Site" as including Section 13, as the Johnny M Mine site is not located in Section 13, as noted above.

9. Fernandez objects to EPA's requests to the extent they exceed the scope of EPA's authority pursuant to Section 104(e) of CERCLA.

10. Fernandez is responding in good faith to each of the requests. In doing so, Fernandez does not waive or in any way limit any of its general or specific objections to the requests. Further, Fernandez's response is not, and should not be construed to be, an admission of liability in law or fact.

11. The requests attempt to impose a continuing obligation on Fernandez to supplement any response provided by it. Such supplementation obligation is not authorized or required by applicable statutes or regulations including, without limitation, Section 104(e) of CERCLA.

### **RESPONSES**

1. Please identify those individuals who assisted in the preparation of this information response. For each individual, provide the following: name, current or last known address, e-mail address, and telephone number.

#### **ANSWER:**

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Written communication to the Lees may be directed to Fernandez's address, with copy to counsel.

Any other contact must be through counsel.

2. Please provide the articles of incorporation and by-laws for Fernandez Company, Ltd. Identify all current corporate officers and their contact information.

**ANSWER:** Fernandez is a New Mexico limited partnership, not a corporation. Accordingly, there are no articles of incorporation or by-laws.

3. Was Fernandez Company, Ltd. ever dissolved, either formally or otherwise? If so, describe the dissolution of the company. In your description, identify to whom the assets were transferred and to whom the liabilities were transferred.

**ANSWER:** Fernandez, a New Mexico limited partnership, is still in existence.

4. Please describe the relationship between Fernandez Company, Ltd. and the Lee Ranch.

**ANSWER:** Fernandez owns the surface estate only of the Lee Ranch/Johnny M (as defined above in General Objection No. 7).

5. Identify all of Fernandez Company, Ltd.'s predecessor corporations.

**ANSWER:** Fernandez objects to the term "predecessor corporations" as such term is not defined and such request presents a legal conclusion. Fernandez is currently reviewing various historical materials regarding ownership of the Lee Ranch/Johnny M. Additional information will be provided as appropriate.

6. Identify all of subsidiaries of the Fernandez Company, Ltd.'s predecessor corporations.

**ANSWER:** Fernandez objects to the term "predecessor corporations" as such term is not defined and such request presents a legal conclusion. None.

7. Please provide documentation that supports Fernandez Company, Ltd. or Lee Ranch's ownership of Sections 7 and 13 and the East Half of Section 18 of Township 13 North, Range 8 West, of McKinley County, NM. If neither entity no longer owns the property, provide documentation that shows the transfer of the property.

**ANSWER:** There is no entity called "Lee Ranch." As previously noted, the Johnny M Mine is not located in Section 13. Fernandez is currently reviewing various historical materials regarding ownership of the Lee Ranch/Johnny M. Additional information will be provided as appropriate.

8. If not provided in question 7, above, please provide documentation of the ownership of the property since 1972 when mining operations began.

**ANSWER:** There are no further documents to provide in response to this request at this time. Fernandez is currently reviewing various historical materials regarding ownership of the Lee Ranch/Johnny M. Additional information will be provided as appropriate.

9. Identify and provide any documents regarding leases, agreements, or contracts between Fernandez Company, Ltd. and/or Lee Ranch, and any former mine operator, including Ranchers Exploration and Development Corporation, Hecla (including its predecessors and subsidiaries), or any other entity for the Johnny M Mine.

**ANSWER:** As previously noted, Lee Ranch is not a legal entity. Fernandez is currently reviewing various historical materials regarding ownership of the Lee Ranch/Johnny M. Additional information will be provided as appropriate. Santa Fe Pacific Railroad Company and its successors were at all times pertinent hereto the owner of the uranium underlying the Lee Ranch/Johnny M. Santa Fe Pacific Railroad Company leased the uranium rights thereunder to Ranchers Exploration and Development Corporation, which developed and operated the Johnny M Mine.

10. Describe the activities or operations which were conducted at the Johnny M Mine by Fernandez Company, Ltd. and/or Lee Ranch. Provide documents in your possession which describes those operations which occurred at that mine.

**ANSWER:** Fernandez conducted no mining or mining-related activities at the Lee Ranch/Johnny M. Any activities thereon were limited to Fernandez acquiring water during the mine's operations. Fernandez is currently reviewing various historical materials regarding ownership of the Lee Ranch/Johnny M. Additional information will be provided as appropriate.

11. Identify and describe all reclamation or cleanup efforts made by Fernandez Company, Ltd. and/or Lee Ranch to address waste by-products and/or prevent potential releases of hazardous substances.

**ANSWER:** Fernandez objects to the request as the term “waste by-products” is vague and undefined. Without waiving any of its objections, Fernandez’s understanding is that Hecla performed certain reclamation activities at the Johnny M Mine. *See* 58 Fed. Reg. 29641 (May 21, 1993) (Nuclear Regulatory Commission -- Hecla Mining Co.; Final Finding of No Significant Impact Regarding the Termination of a Source Material License for Hecla Mining Company, Johnny M Mine Site, McKinley County, New Mexico). Fernandez refers EPA to Hecla for more detailed information regarding the nature and scope of reclamation activities that were conducted. Additional information regarding reclamation/cleanup activities at the mine might also be found in the files of the various federal and state regulatory agencies with jurisdiction over the mine (for example, the U.S. Nuclear Regulatory Commission). Fernandez is currently reviewing various historical materials regarding activities related to the Lee Ranch/Johnny M. Additional information will be provided as appropriate.

12. Provide any claims, permits, licenses, closure plans, or other legal documents governing development, operation, or closure of each mine.

**ANSWER:** The reference to “each mine” is unclear. For purposes of responding to this request, Fernandez assumes the question was intended to refer solely to the Lee Ranch/Johnny M. None. Fernandez was not involved in the development, operation or closure of the Johnny M Mine. Ranchers Exploration and Development Corporation developed and operated the Johnny M Mine as lessee of Santa Fe Pacific Railroad Company, the uranium owner. Fernandez is currently



reviewing various historical materials regarding ownership of and activities related to the Lee Ranch/Johnny M. Additional information will be provided as appropriate.